

were necessarily performed at home. In the Eastern empire concubinage was abolished at the end of the ninth century. The heathen Germans had two kinds of marriage, one with, the other without, jural consequences. Both were marriage. The difference was that one consisted in betrothal, endowment, and a solemn wedding ceremony; the other lacked these details. Here, again, it is worth while to notice that property and rank would very largely control the question which of these two forms was more suitable. Consequences as to property followed from the former form which were wanting in the latter. If the pair had no property, the latter form was sufficient. In mediaeval Christian Germany the canon law obliterated the distinction, but then morganatic marriage was devised, by which a man of higher rank could marry a woman of lower rank without creating rights of property or rank in her or her children. In such a form of marriage the Roman law saw lack of *affectus maritalis* and of *deligere honore pleno* ; hence the union was concubinage, not marriage. The German law held that the intention to marry made marriage, and that property rights were another matter.¹ The ancient mores lasted on and kept control of marriage, and the church, in its efforts to establish its own theories of marriage, property, legitimacy, rank, etc., was at war with the old mores. 426. Early church usage. In the Decretals of Gratian² are collected the earliest authorities about marriage in the Christian church, some of which are regarded now as unguine. " Nevertheless it is impossible to say that, in the early times of Christianity, there was any church wedding. Weddings were accomplished before witnesses independently of the church, or

perhaps in
the presence of a priest by the *prqfessiones*"
Then followed
the pompous home bringing of the bride.
Afterwards the spouses
took part in the usual church service and the
sacrament and
gave oblations.³ Later special prayers for the newly
wedded were
introduced into the service. Later still special
masses for the
newly wedded were introduced. Such existed
probably before

1

Freisen, 48, 103 ; Grimm, *D. R. A.* > 420.

2

II, c. XXX, qu. 5, c. i.

⁸ Pullan, *Hist. Book of Common Prayer*, 217.